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7 MICHAEL SALES

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MICHAEL SALES,
11 Plaintiff,
12 vs.

13 COUNTY OF VENTURA; CITY OF
14 THOUSAND OAKS, a Municipality;
15 SGT. BRIAN SLOMINSKI; and
16 DOES 1 THROUGH 10,
17 INCLUSIVE,
18 Defendants.

CASE NO.:

**COMPLAINT FOR DAMAGES
AND DEMAND FOR JURY
TRIAL**

- 42 U.S.C. § 1983
- 42 U.S.C. § 1985
- 42 U.S.C. § 1988
- Unconstitutional Policy
- Violation of Fourth, Fifth
and Fourteenth Amendment
of United States Constitution
- Negligent Retention, Hiring,
Training, Supervising
- California Civil Code §§ 51.7,
52 and 52.1
- Unruh Act
- False Imprisonment
- False Arrest
- Unlawful Search and Seizure
- Retaliation
- Harassment
- Intentional Infliction of Emotional
Distress
- Violation/Deprivation of Civil
Rights Under Color of Law
- Negligence

1 PLAINTIFF MICHAEL SALES , HEREINAFTER REFERRED TO AS
2 “Plaintiff”, ALLEGES AS FOLLOWS FOR HIS CLAIMS FOR RELIEF
3 HEREIN:

4 **I**

5 **JURISDICTION**

6 1. This is an action for deprivation of civil rights under color of state law
7 brought pursuant to Title 42 United States Code Section 1983, for remedies for
8 Defendants’ deprivation of Plaintiff’s civil rights. By this action, Plaintiff seeks
9 all relief to which he may be entitled, under both state and federal laws, including
10 but not limited to compensatory and punitive damages, attorneys’ fees and costs,
11 and prejudgment interest. Jurisdiction of the subject matter of this action is
12 established in this court pursuant to 28 U.S.C. Sections 1331 and 1343, and over
13 supplemental claims for relief arising under state law pursuant to 28 U.S.C.
14 Section 1367(a).

15 **II**

16 **VENUE**

17 2. Venue lies in this Court pursuant to 28 U.S.C. Section 1391(b)(1) and
18 (2).
19

20 **III**

21 **CLAIMS FOR RELIEF**

22 3. At all times herein mentioned, Plaintiff was a citizen of the United States,
23 residing in the County of Ventura, State of California.

24 4. Plaintiff is informed and believes and based thereon alleges that, at all
25 times herein mentioned, Defendant COUNTY OF VENTURA is and was
26 a public entity, duly organized and existing under and by virtue of the
27 laws of the State of California and was responsible for hiring, training,
28

1 and supervising the conduct, policies and practices of its employees and
2 agents of the Ventura County Sheriff's Department, and all of its
3 employees.

- 4 5. Plaintiff is informed and believes and based thereon alleges that, at all
5 times herein mentioned, Defendant CITY OF THOUSAND OAKS is
6 and was a public entity and municipal corporation, duly organized and
7 existing under and by virtue of the laws of the State of California.

8 Plaintiff is informed and believes and based thereon alleges that
9 Defendant CITY OF THOUSAND OAKS contracts police services with
10 Defendant COUNTY OF VENTURA under the name of the "Thousand
11 Oaks Police Department" and was responsible for hiring, training, and
12 supervising the conduct, policies and practices of its employees and
13 agents of the Ventura County Sheriff's Department/Thousand Oaks
14 Police Department, and all of its employees.

- 15 6. Plaintiff is informed and believes, and based thereon alleges that
16 Defendant SGT. BRIAN SLOMINSKI is a natural person, and Does 4 –
17 10 are natural persons. Defendant SGT. BRIAN SLOMINSKI is and was
18 a supervisor at the Ventura County Sheriff's Department.

- 19 7. Plaintiff is informed and believes and based thereon alleges that at all
20 times herein mentioned, Defendants and DOES 4 through 10, inclusive,
21 are sued individually and in their official capacity as officers, detectives,
22 sergeants, captains, commanders, supervisors, and/or civilian employees,
23 and agents, policy makers and representatives for the Ventura County
24 Sheriff's Department/Thousand Oaks Police Department, a department
25 and subdivision of Defendants COUNTY OF VENTURA and CITY OF
26 THOUSAND OAKS.

- 27 8. Plaintiff is unaware of the true names and/or capacities of Defendants
28 sued as Does 1 through 10, inclusive, and, therefore, sue said Defendants

1 by such fictitious names. Plaintiff will amend this complaint, by leave of
2 the court if necessary, to allege their true names and/or capacities when
3 ascertained. Plaintiff is informed and believes and based thereon alleges,
4 that Defendants Does 1 through 10, inclusive, and each of them, were the
5 agents and servants of the other Defendants and at all times were acting,
6 within the scope of said agency and are jointly obligated with the
7 remaining Defendants.

- 8 9. Plaintiff has complied with all applicable statutes by filing the Claim for
9 Damages or Injury on March 2, 2015 with the County of Ventura and
10 City of Thousand Oaks (Attached herewith as Exhibit "A" and
11 incorporated herein by this reference, are conformed copies of the
12 Claims.) The Claims were denied on March 9, 2015 by County of
13 Ventura and on March 20, 2015 by City of Thousand Oaks. (Exhibit
14 "B".)

15 16 IV

17 STATEMENT OF FACTS

- 18 10. Plaintiff refers to and incorporates herein by reference each and every
19 allegation contained in Paragraphs 1 through 9, inclusive, as if set forth in
20 full here.
- 21 11. On or about December 31, 2014, at or about 7:00 a.m., Plaintiff was
22 inside his residence located at 884 Old Farm Road, Thousand Oaks,
23 California. Plaintiff was leasing the house from Mr. John Flynn. At or
24 about 7:30 a.m. in the morning, Plaintiff heard a loud banging on his
25 front door which had several locks. Plaintiff went to his door to find out
26 who was banging on his door and was informed that it was the Ventura
27 County Sheriff's Department. Plaintiff informed the deputies that he
28 needs to find the key to unlock the door. The deputies kept banging on

1 the door while Plaintiff was looking for the key. Plaintiff was unable to
2 find the key for the front door, therefore, he opened the garage to exit the
3 property and talk to five (5) deputies. About ten (10) deputies, names
4 unknown, ran inside the house with their guns drawn and handcuffed
5 Plaintiff without questioning him.

6 12. When Plaintiff asked the deputies why he was being detained and why
7 his house was being searched, Plaintiff was informed that they had a
8 search warrant for John and Brandon Flynn. Plaintiff informed the
9 deputies that they were in the wrong house. John and Brandon Flynn did
10 not live in that house and he was not John Flynn. Plaintiff showed the
11 deputies his identification and the lease agreement proving that he was
12 not the person on the search warrant which he was never provided with.

13 13. Although the deputies knew that John and Brandon Flynn did not reside
14 at that property, they kept Plaintiff detained and continued searching his
15 house. Plaintiff asked for water and was deprived of water. After
16 deputies completed their search, they released Plaintiff and provided him
17 with the property receipt which showed that they took a paintball gun
18 which belonged to Plaintiff's son and a garage door receipt with "John
19 Flynn" name on it.

20 14. On December 31, 2014, Defendants unlawfully entered onto Plaintiff's
21 property, damaged Plaintiff's property, unlawfully detained, falsely
22 imprisoned, falsely arrested Plaintiff and violated Plaintiff's civil rights.

23 15. The above referenced acts and omissions of Defendants and each of
24 them, were conducted in their law enforcement capacity in violation of
25 Plaintiff's Fourth, Fifth and Fourteenth Amendments under 42 U.S.C. §
26 1983.

27 16. As a result of the above described acts and omissions of Defendants and
28 each of them, Plaintiff suffered emotional distress and mental suffering,

1 humiliation and indignity, false arrest and imprisonment, unlawful
2 detention, loss of liberty, stress and loss of standing in the community,
3 the exact amount of which will be determined at trial.

4
5 **INJURIES TO PLAINTIFFS**

6 17. As a result of the conduct of the Defendants as stated above, Plaintiff has
7 suffered and will continue to suffer physical and emotional distress and
8 injuries, humiliation and indignity, shock and fear from removal from
9 familiar surroundings, indignity from detention, imprisonment, arrest,
10 and search, physical consequences, loss of liberty, loss of income, stress,
11 and loss of standing in the community.

12
13 **V**

14 **FIRST CAUSE OF ACTION**

15 **(42 U.S.C. § 1983 – MONELL CLAIM and 42 U.S.C. § 1988)**

16 **BY PLAINTIFF AGAINST DEFENDANTS COUNTY OF VENTURA, CITY**
17 **OF THOUSAND OAKS AND DOES 1 THROUGH 3, INCLUSIVE**

18 18. Plaintiff refers to and incorporates by reference the allegations in
19 Paragraphs 1 through 17, inclusive, as if set forth in full here.

20 19. Defendants COUNTY OF VENTURA, CITY OF THOUSAND OAKS
21 and Does 1 through 3, inclusive, are alleged to have maintained a policy
22 permitting the occurrence of the type of wrongs described herein, and
23 based on the principal set forth in Monell vs. New York City Department
24 of Social Services (1978) 436 U.S. 648 and Heller vs. Bushey (9th Cir.
25 1985) 759 F.2d 1371, are liable for all injuries sustained by Plaintiff.

26 20. Plaintiff's civil rights were violated under 42 U.S.C. § 1983 when
27 Plaintiff was unlawfully detained, falsely imprisoned, falsely arrested,
28 and his residence was unlawfully searched.

1 21. In perpetrating the above referenced acts and omissions, the Defendant
2 COUNTY OF VENTURA, hereinafter referred to as "County", was at all
3 relevant times herein a government entity, CITY OF THOUSANT
4 OAKS, hereinafter referred to as "City", was at all relevant times herein,
5 a municipality, who contracts police services with the COUNTY OF
6 VENTURA, Ventura County Sheriff's Department was a department and
7 subdivision of Defendant COUNTY OF VENTURA and Does 4 through
8 10, inclusive were at all times herein mentioned agents/employees of
9 Defendants COUNTY OF VENTURA, CITY OF THOUSANC OAKS,
10 VENTURA COUNTY SHERIFF'S DEPARTMENT and Does 1 through
11 3, inclusive.

12 22. Defendants, County, City and Does 1 through 3, inclusive, have
13 maintained a policy or custom of a) making unlawful detention and/or
14 arrest; (b) improperly disciplining agents/employees of the County of
15 Ventura and City of Thousand Oaks; (c) improperly investigating
16 complaints of wrong-doing by agents/employees of the Ventura County
17 Sheriff's Department; (d) improperly selecting, training, and supervising
18 agents/employees of the Ventura County Department.

19 23. The acts set forth herein constitute a policy, practice, or custom of
20 ordering, ignoring, encouraging, causing, tolerating, sanctioning and/or
21 acquiescing in the violation by Defendants County and City employees,
22 namely employees within Ventura County Sheriff's Department, of the
23 constitutional rights of employees on matters of public concern.

24 24. The acts and failures to act as alleged herein also result from a custom,
25 practice or policy of inadequate training in a deliberate indifference of the
26 rights of employees who speak out on matters of public concern, and the
27 injuries suffered by Plaintiff as alleged herein were caused by such
28 inadequate training and supervision.

1 25. Defendants and Does 1 through 3, inclusive, are policy-makers for
2 Defendants County and City and Does 1 through 3, inclusive. The acts
3 and failures to act as alleged herein were done pursuant to policies and
4 practices instituted and enforced by Defendants and Does 1 through 3,
5 inclusive, pursuant to their authority as a policy-maker for Defendants
6 County and City and Does 1 through 3, inclusive.

7 26. Therefore, Defendants County and City and Does 1 through 3, inclusive,
8 are liable for Plaintiff's injuries pursuant to 42 U.S.C. § 1983 and Monell
9 vs. Department of Social Services, 436 U.S. 658 690, 694 (1978), Karim-
10 Panahi vs. Los Angeles Police Department, 839 F.2d 621 (1988); see
11 also, Leatherman vs. Tarrant County Narcotics Intelligence &
12 Coordination Unit, 507 U.S. 163 (1993) (rejecting application of
13 heightened pleading standard in municipal liability cases).

14 27. As a result of the above described intentional acts and omissions of the
15 Defendants and each of them, Plaintiff's constitutional rights, that is, the
16 Fourth, Fifth, and Fourteenth Amendments were violated when Plaintiff
17 was unlawfully detained, falsely imprisoned, and falsely arrested.

18 28. The above referenced acts and omissions of Defendants and each were
19 conducted in their law enforcement capacity.

20 29. As a result of the acts and omissions of Defendants and Does 1 through
21 3, inclusive, are liable for Plaintiff's injuries under the 42 U.S.C. § 1983
22 and Monell vs. Department of Social Services, 436 U.S. 658, 690, 694
23 (1978), Karim-Panahi vs. Los Angeles Police Department, 839 F.2d 621
24 (1988); see also Leatherman vs. Tarrant County Narcotics Intelligence &
25 Coordination Unit, 507 U.S. 163 (1993) (rejected application of
26 heightened pleading standard in municipal liability cases).

27 30. As a result of the wrongful acts of Defendants and Does 1 through 3,
28 inclusive, Plaintiff has suffered physical and emotional distress and

injuries, humiliation, shock and fear from removal from familiar surroundings, indignity from arrest, search, physical consequences, loss of liberty, stress, and loss of standing in the community, the exact amount of which will be determined at trial. Accordingly, Plaintiff seeks compensation from above Defendants, including attorneys' fees, pursuant to 42 U.S.C. § 1988.

SECOND CAUSE OF ACTION

VIOLATION OF FOURTH, FIFTH AND FOURTEENTH AMENDMENT OF UNITED STATES CONSTITUTION

42 USC §§ 1983, 1985 AND 1988

BY PLAINTIFF AGAINST ALL DEFENDANTS

31. Plaintiff refers to and incorporates by reference the allegations of Paragraphs 1 through 30, inclusive, as if set forth in full herein.
32. This cause of action arises under Title 42 United States Code, §§ 1983, 1985, and 1988 wherein Plaintiff seeks to redress deprivation under color of state law of a right privilege or immunity secured under the Fourth Amendment and/or Fifth Amendment and/or Fourteenth Amendment.
33. Plaintiff is informed and believes and thereby alleges that at all times mentioned herein, Defendants Sgt. Brian Slominski and Does 4 through 10, inclusive, and each of them, were duly appointed, qualified and acting Ventura County Sheriff's Department agents/employees, in the County of Ventura, City of Thousand Oaks, State of California, and that at all times mentioned herein, were acting within the course and scope of such employment for Defendants County, City, Ventura County Sheriff's Department and Does 1 through 3, inclusive, under the color of state law.
34. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, said Defendants and each of them deprived Plaintiff of his rights in violation of the Fourth, Fifth and Fourteenth Amendment

1 when said Defendants unlawfully searched Plaintiff's property and
2 unlawfully detained, falsely imprisoned and arrested Plaintiffs on
3 December 31, 2014.

4 35. Defendants and Does 1 through 10, inclusive, and each of them, failed
5 and refused to intervene or try to prevent the wrongful conduct of the
6 other.

7 36. As a proximate result of the aforementioned acts of Defendants, and each
8 of them, Plaintiff was injured, and by reason thereof, Plaintiff claims
9 damages from Defendants, and each of them, in a sum to be determined
10 by this Court.

11 37. The aforementioned acts and omissions of each Defendant was done by
12 each Defendant knowingly, intentionally, willfully, maliciously or with
13 such callous disregard with purpose of harassment, oppression and
14 infliction injury upon the Plaintiff. This was done with reckless, wanton
15 and callousness of Plaintiff's civil rights and by reason thereof. Plaintiff
16 claims exemplary and punitive damages from Defendants Does 1 through
17 10, inclusive, in a sum determined by this Court, to deter, prevent and
18 educate said Defendants from ever inflicting such injuries again upon any
19 individual.

20 38. By reason of the aforementioned acts and omissions of Defendants, and
21 each of them, Plaintiff retained attorneys to represent him and did incur
22 and continue to incur investigation costs, expenses, attorney's fees, and
23 legal costs. Plaintiff requests payment by Defendants, and each of them,
24 for compensation of fees and costs pursuant to Title 42 USC § 1988.

25
26 **THIRD CAUSE OF ACTION**

27 **VIOLATION OF CIVIL CODE §§ 51.7 AND 52**

BY PLAINTIFF AGAINST ALL DEFENDANTS

39. Plaintiff realleges and incorporates by reference Paragraph 1 through 38, inclusive, as though fully set forth herein.

40. Plaintiff is informed and believes, and thereon alleges, that Defendants and each of them, violated California Civil Code Section 51.7 and wrongfully denied Plaintiff his rights within the meaning of California Civil Code Section 52(b) by inflicting violence and conspiring to, aiding, and infliction of violence against Plaintiff by reason of his race, socio-economic status, and/or ethnic heritage or by attempting to inflict such injury.

41. By reason of the Defendants' conduct, Defendants are liable to Plaintiff in the amount of twenty-five thousand dollars (\$25,000.00) and triple the damages proven at trial.

FOURTH CAUSE OF ACTION

FALSE ARREST AND FALSE IMPRISONMENT

BY PLAINTIFF AGAINST ALL DEFENDANTS

42. Plaintiff incorporate by reference the allegations of Paragraphs 1 through 41, inclusive, as though fully set forth herein.

43. On or about December 31, 2014, Plaintiff was falsely arrested and falsely imprisoned without probable cause.

44. The act of Defendants and Does 1 through 10, inclusive, and each of them, as herein alleged, were willful, wanton, malicious and oppressive and justify the awarding of punitive damages in an amount to be

determined by the court according to proof against all Defendants, except Defendants County and City.

FIFTH CAUSE OF ACTION

NEGLIGENT RETENTION, HIRING, TRAINING AND SUPERVISING

BY PLAINTIFF AGAINST DEFENDANTS COUNTY, CITY OF LOS

ANGELES, AND DOES 1 THROUGH 3, INCLUSIVE

45. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 44, inclusive, as if set forth in full herein.

46. Plaintiff is informed and believes and thereon alleges, that doing the acts as heretofore, alleged, Defendants County, City and Does 1 through 3, inclusive, knew or in the exercise of reasonable diligence should have known, that Defendants Does 4 through 10, inclusive, were incompetent and unfit to perform the duties for which they were employed, and that an undue risk to persons such as Plaintiff would exist because of the employment.

47. Despite the advance knowledge, Defendants County, City, and Does 1 through 3, inclusive, retained Defendants Does 4 through 10, inclusive, as employees in disregard of the rights and safety of others. As a result of this disregard of the right of Plaintiff, Plaintiff is entitled to award of punitive damages from the Ventura County Sheriff's Department and Does 1 through 3, inclusive, in an amount to be determined by this court according to proof.

48. Defendants County, City and Does 1 through 3, inclusive, are alleged to have knowingly, with gross negligence and/or deliberately and indifferently to the constitutional rights of persons within the jurisdiction

1 of the State of California, maintained or permitted a policy or custom of
2 permitting the occurrence of the type of wrongs described herein, and are
3 liable for all injuries sustained by Plaintiff.

4 49. Defendants County, City and Does 1 through 3, inclusive, have
5 maintained a policy or custom of (a) improperly disciplining their
6 agents/employees; (b) improperly investigating complaints of wrong-
7 doing by their agents/employees; (c) improperly selecting, training, and
8 supervising their agents/employees; (d) improperly retaining their
9 agents/employees. Through this policy or custom, Defendants County,
10 City and Does 1 through 3, inclusive, have ratified the conduct of
11 Defendants Does 4 through 10, inclusive.

12
13 **SIXTH CAUSE OF ACTION**

14
15 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

16
17 **BY PLAINTIFF AGAINST ALL DEFENDANTS**

18
19 50. Plaintiff refers to and incorporates by reference the allegations of
20 Paragraphs 1 through 49, inclusive, as if set forth in full herein.

21 51. As a result of the act of Defendants, and each of them, toward Plaintiff,
22 Plaintiff suffered false arrest and false imprisonment. The conduct of all
23 Defendants was outrageous conduct with the intent to cause emotional
24 distress of a severe nature and this conduct did cause emotional distress
25 to Plaintiff. Defendants, and each of them, are responsible for these
26 damages.

27
28 **SEVENTH CAUSE OF ACTION**

RETALIATION AND HARASSMENT

BY PLAINTIFF AGAINST ALL DEFENDANTS

52. Plaintiffs refer to and incorporate by reference the allegations of Paragraphs 1 through 51, inclusive, as if fully set forth herein.

53. All of the above-described acts, conduct and omission of Defendants in Paragraphs 1 through 52, inclusive, and each of them, was conducted with malice, hatred, ill will and reckless disregard for ascertaining the truth and to retaliate against Plaintiff.

54. As a direct and proximate cause of the unlawful conduct and actions alleged herein, Plaintiff suffered and continue to suffer severe emotional distress, humiliation, anxiety, credibility and loss of place in the society, the exact amount of which will be determined at trial.

EIGHTH CAUSE OF ACTION

NEGLIGENCE

BY PLAINTIFFS AGAINST ALL DEFENDANTS

55. Plaintiffs refer to and incorporate by reference the allegations of Paragraphs 1 through 54, inclusive, as if fully set forth herein.

56. Defendants, and each of them, behaved negligently toward Plaintiff causing the Plaintiff to be injured.

57. As a result of the said negligence, Defendants, and each of them, are liable for Plaintiff's damages.

1 WHEREFORE, PLAINTIFF MICHAEL SALES, PRAY FOR JUDGMENT
2 ON ALL CAUSES OF ACTIONS AGAINST THE DEFENDANTS AS
3 FOLLOWS:

- 4 1. For general damages in an amount according to proof;
- 5 2. For medical expenses in an amount according to proof;
- 6 3. For loss of earnings and earning capacity, according to proof;
- 7 4. For punitive damages in an amount appropriate to punish Defendants,
8 except Defendants County of Ventura and City of Thousand Oaks, for
9 their wrongful conduct and as an example for others;
- 10 5. For reasonable attorneys' fees pursuant to Title 42 of the United State
11 Code, Section 1988(b).
- 12 6. For costs of suit herein incurred;
- 13 7. For interest allowed by law; and
- 14 8. For such other and further relief as the court deems just and proper.

15
16 Dated: April 22, 2015

LAW OFFICES OF ETAN Z. LORANT

17 By:

18 
19 ETAN Z. LORANT, Attorney for Plaintiff

20
21 **DEMAND FOR JURY TRIAL**

22 The Plaintiff in the above-entitled action requests a trial by jury pursuant to
23 Rule of the Federal Rules of Civil Procedure.

24
25 Dated: April 22, 2015

LAW OFFICES OF ETAN Z LORANT

26 By:

27 
28 ETAN Z. LORANT

Attorney for Plaintiff